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Group: 3754

Att. Docket: 8266-0823

Applicants: Eckstein et al.

Invention: HYDRAULIC CONTROL
APPARATUS FOR A
HOSPITAL BED

Serial No.: 10/085,966

Filed: February 28, 2002

Examiner: Keascl, E.

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On January 23, 2004
D. Cwiklinski
D. Cwiklinski

PETITION FROM REFUSAL TO ADMIT AMENDMENT
UNDER §1.127

Director of Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

The following petition is filed in response to the Examiner's refusal to enter an amendment after a final rejection. The proposed amendment merely takes limitations that were previously inherent and makes them explicit. Furthermore, the amendments place the application in better condition for appeal. A copy of the claims as pending is submitted herewith as Appendix A. A copy of the claims with the proposed amendments is submitted herewith as Appendix B.

It is specifically noted that a Notice of Appeal was filed in this case on January 21, 2004. Accordingly, an appeal brief must be filed by March 21, 2004 in order to not require an extension fee. Any measures that could be taken to ensure that the present petition is considered and ruled on in time such that the rulings can be incorporated into the Appeal Brief would be appreciated.

Statement of Facts

A first Official Action on the present application was mailed August 19, 2002 embodying a restriction requirement. A response was filed September 19, 2002. A non-final action was then mailed on November 4, 2002 and was replied to on February 4, 2003. A final rejection was then mailed on March 6, 2003. In response, a Request for Continued Examination was filed on May 14, 2003. Subsequently, a non-final action was mailed on July 15, 2003 and was responded to on August 25, 2003. Then, a final rejection was issued on October 21, 2003. Applicants responded on December 22, 2003 to then receive an Advisory Action mailed on January 13, 2004. In the Advisory Action, the Examiner refused to enter an amendment put forth in the Applicant's response of December 22, 2003 stating that the amendments raise new issues and that the amendments do not place the application in better form for appeal. Applicant hereby petitions the Director to find that the amendments do not raise new issues, find that the amendments do place the application in better form for appeal, and order the entrance of the amendments put forth in the response of December 22, 2003.

Amendments at Issue

I. Renumbering is not a substantive change that results in new issues.

The response of December 22, 2003 attempted to amend claims 55-63. The immediately previous iteration of the claims contained a mis-numbering (calling them 41-59). In his response, the Examiner renumbered and referred to claims 41-59 as claims 55-63. Therefore, each of claims 55-63 was re-numbered as suggested by the Examiner. Furthermore, each of claims 59-63 was amended to maintain the dependency structure of the claims as they had been originally presented. This part of the amendment is clearly not substantive and was actually suggested by the Examiner. Furthermore, by refusing to admit the amendment combined with the fact that the Examiner renumbered claims 41-59 as 55-63, claims 59-63 depend from non-existent claims. The current amendment that re-establishes the dependency structure that was present before the Examiner's claim numbering change clearly places the claims in better form for appeal.

II. Explicitly stating limitations that were previously inherent is not a substantive change that results in new issues.

A. Claim 58.

In relevant part, before attempted amendment, claim 58 stated:

"A valve assembly including: ...

a valve having a portion moveable within the conduit between a first position inhibiting fluid communication between the inlet and the outlet, and a second position permitting fluid communication between the inlet and the outlet;

a lever connected to the valve to permit manual movement of the valve between the first and second positions, the lever including first and second bias mechanisms, the first bias mechanism urging the lever toward a position that places the valve in the second position, the second bias mechanism urging the lever away from the position that places the valve in the second position; and

a solenoid connected to the valve to move the valve between the first and second positions in response to electrical input to the solenoid."

As can be seen from the forgoing passage, the first cited paragraph establishes that the valve has a first position and the valve has a second position. The second paragraph establishes that there is a lever than allows manual movement of the valve between the first and second position. The second paragraph also establishes that the lever has a position that places the valve in the second position of the valve.

Therefore, the above listed passage establishes that the valve has at least two positions and that the lever has at least one position. The proposed amendment, in relevant part, is as follows:

"A valve assembly including: ...

a valve having a portion moveable within the conduit between a first valve position inhibiting fluid communication between the inlet and the outlet, and a second valve position permitting fluid communication between the inlet and the outlet;

a lever connected to the valve to permit manual movement of the valve between the first and second valve positions, the lever including first and second bias mechanisms, the first bias mechanism urging the lever toward a position that places the valve in the second valve position, the second bias mechanism urging the lever away from the position that places the valve in the second valve position; and

a solenoid connected to the valve to move the valve between the first and second valve positions in response to electrical input to the solenoid."

Basically, the amendment explicitly states that the valve may be placed in a first valve position and a second valve position. Stated even more simply, the valve may assume valve positions. Applicant cannot understand the Examiner's position stating that it is not inherent for valves to assume valve positions. The explicit statement that valves assume valve positions raises no new issues that would require further consideration.

B. Claims 59 and 60

The only amendments made to claims 59 and 60 are amendments to renumber the claims and to correct the dependency based on the renumbering of claims as suggested by the examiner. As stated in Section I, such a renumbering does not raise new issues that would require further consideration.

C. Claim 61

Claim 61 corrects the dependency based on the renumbering of its base claim. Furthermore, the proposed amendment to claim 61 stated:

“wherein the lever is movable into a first lever position
wherein the first and second bias mechanisms are in equilibrium.”

Similarly to claim 58, claim 61 states that the lever is movable to a first lever position. The Examiner previously stated that the use of “first position” in claim 61 was indefinite due to the use of “first position” when describing a position of the valve. Applicant notes that even in the non-amended claim 61, it was stated that “the lever is movable to a first position.” (emphasis added) The first position of the lever is introduced in claim 61 with an indefinite article. Thus, it is obvious that the first position described in claim 61 is not the same as the first position introduced in claim 58. Furthermore, a reading of claim 61 with the limitations of claim 58 (before the current attempted amendment of both claims 58 and 61) states:

“a valve having a portion moveable within the conduit
between a first position inhibiting fluid communication between
the inlet and the outlet, and a second position permitting fluid
communication between the inlet and the outlet; ...
wherein the lever is moveable into a first position”

Applicant believes it is clear that the valve moves between first and second positions, that the lever is movable into a first position, and that the first position of the lever

is not the same first position of the valve. The Examiner stated that the use of the un-amended limitations was indefinite. Therefore, the Applicant amended to explicitly state that valves move into and between valve positions and that levers move into and between lever positions. Such limitations were clearly inherently present in the pre-amended claims. However, the Examiner's Advisory Action states "the proposed change to the scope of the claims is more than 'expressly stat[ing] what was previously inherent.'" Applicant again does not understand how the Examiner can state that valves assuming valve positions and levers assuming lever positions was not inherent in the claims. Such amendments do not raise new issues that would require further consideration.

D. Claims 62-63

The amendments to claims 62 and 63 renumber dependency as suggested by the Examiner and merely state that positions assumed by the lever are lever positions and positions assumed by valves are valve positions. As stated above, such explicit statements were previously inherent in the claims.

Petition Fee

No fee is believed to be necessary for this petition. The Commissioner is hereby authorized to charge any fees which may be required to the Deposit Account of Bose McKinney & Evans, Deposit Account No. 02-3223.

Petition


The Applicant requests that the submitted amendments be entered to better place the application in condition for Appeal.

Conclusion

The Applicant submits that the requirements for allowing entrance of this amendment have been met. The submitted amendments only explicitly state limitations that were previously inherent. Furthermore, such explicit statements do not raise new issues. In the event that there are any questions related to this request or to the application in general, the undersigned would appreciate the opportunity to address those questions directly in a telephone interview to expedite the prosecution of this application for all concerned.

Respectfully submitted,

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Appendix ACurrent Claims

1-21. (Cancelled)

22. A valve assembly including:

a manifold block having an inlet, an outlet, and a conduit in fluid communication with the inlet and with the outlet;

a valve having a portion movable within the conduit between a first position inhibiting fluid communication between the inlet and the outlet, and a second position permitting fluid communication between the inlet and the outlet;

a lever connected to the valve to permit manual movement of the valve between the first and the second positions;

a solenoid connected to the valve to move the valve between the first and second positions in response to an electrical input to the solenoid, the position of the lever being independent of the presence of the electrical input to the solenoid; and

a lock engaging the lever to lock the lever in a position having the valve in the second position.

23. The assembly of claim 22 wherein the lock includes a lock solenoid and a lock bar coupled to the lock solenoid, the lock bar engaging the lever, and the lock solenoid being operable to move the lock bar in response to an electrical input to the lock solenoid.

24. The assembly of claim 22 wherein the lock includes a lock bar movable into and out of engagement with the lever and a lock solenoid coupled to the lock bar, the lock solenoid being operable to move the lock bar relative to the lever.

25. (Cancelled)

26. A valve assembly for a hospital bed including:

a manifold block having an inlet, an outlet configured to connect to a device for positioning the bed, and a conduit in fluid communication with the inlet and with the outlet;

a valve having a portion movable within the conduit between a first position inhibiting fluid communication between the inlet and the outlet, and a second position permitting fluid communication between the inlet and the outlet;

a lever connected to the valve to permit manual movement of the valve

between the first and the second positions, the lever being located entirely outside the conduit; and

a solenoid connected directly to the valve to move the valve between the first and second positions in response to an electrical input to the solenoid, the position of the lever being independent of the presence of the electrical input to the solenoid, the solenoid being positioned between the manifold and the lever.

27-40. (Cancelled)

41. The valve assembly of claim 22, wherein the lock is integral with the lever.

42. The valve assembly of claim 22, wherein the lock is activated by pressure on the lever.

43. The valve assembly of claim 26, wherein the solenoid is positioned outside the manifold.

44. A valve assembly including:

a manifold block having an inlet, an outlet, a conduit in fluid communication with the inlet and with the outlet;

a valve having a portion movable within the conduit between a first position inhibiting fluid communication between the inlet and the outlet, and a second position permitting fluid communication between the inlet and the outlet;

a lever connected to the valve to permit manual movement of the valve between the first and the second positions, the lever including first and second bias mechanisms, the first bias mechanism urging the lever toward a position that places the valve in the second position, the second bias mechanism urging the lever away from the position that places the valve in the second position; and

a solenoid connected to the valve to move the valve between the first and second positions in response to an electrical input to the solenoid, the position of the lever being independent of the presence of the electrical input to the solenoid.

45. The valve assembly of claim 44, wherein the first and second bias mechanisms are springs.

46. The valve assembly of claim 45, wherein compression of the spring of the first bias mechanism results in the elongation of the spring of the second bias mechanism.

47. The valve assembly of claim 44, wherein the lever is movable into a first position wherein the first and second bias mechanisms are in equilibrium.

48. The valve assembly of claim 47, wherein when the lever is in the position that places the valve in the second position, the lever is urged toward the first position by the net force of the first and second bias mechanisms.

49. The valve assembly of claim 47, wherein the first and second bias mechanisms combine to urge the lever toward the first position when the lever is displaced from the first position.

Appendix BProposed Amendments

1-21. (Cancelled)

22. (Previously Presented) A valve assembly including:

a manifold block having an inlet, an outlet, and a conduit in fluid communication with the inlet and with the outlet;

a valve having a portion movable within the conduit between a first position inhibiting fluid communication between the inlet and the outlet, and a second position permitting fluid communication between the inlet and the outlet;

a lever connected to the valve to permit manual movement of the valve between the first and the second positions;

a solenoid connected to the valve to move the valve between the first and second positions in response to an electrical input to the solenoid, the position of the lever being independent of the presence of the electrical input to the solenoid; and

a lock engaging the lever to lock the lever in a position having the valve in the second position.

23. (Original) The assembly of claim 22 wherein the lock includes a lock solenoid and a lock bar coupled to the lock solenoid, the lock bar engaging the lever, and the lock solenoid being operable to move the lock bar in response to an electrical input to the lock solenoid.

24. (Original) The assembly of claim 22 wherein the lock includes a lock bar movable into and out of engagement with the lever and a lock solenoid coupled to the lock bar, the lock solenoid being operable to move the lock bar relative to the lever.

25. (Cancelled)

26. (Previously Presented) A valve assembly for a hospital bed including:

a manifold block having an inlet, an outlet configured to connect to a device for positioning the bed, and a conduit in fluid communication with the inlet and with the outlet;

a valve having a portion movable within the conduit between a first position inhibiting fluid communication between the inlet and the outlet, and a second position permitting fluid communication between the inlet and the outlet;

a lever connected to the valve to permit manual movement of the valve between the first and the second positions, the lever being located entirely outside the conduit; and

a solenoid connected directly to the valve to move the valve between the first and second positions in response to an electrical input to the solenoid, the position of the lever being independent of the presence of the electrical input to the solenoid, the solenoid being positioned between the manifold and the lever.

27-54. (Cancelled)

[[41]] 55. (Previously Presented) The valve assembly of claim 22, wherein the lock is integral with the lever.

[[42]] 56. (Previously Presented) The valve assembly of claim 22, wherein the lock is activated by pressure on the lever.

[[43]] 57. (Previously Presented) The valve assembly of claim 26, wherein the solenoid is positioned outside the manifold.

[[44]] 58. (Presently Amended) A valve assembly including:
a manifold block having an inlet, an outlet, a conduit in fluid communication with the inlet and with the outlet;

a valve having a portion movable within the conduit between a first valve position inhibiting fluid communication between the inlet and the outlet, and a second valve position permitting fluid communication between the inlet and the outlet;

a lever connected to the valve to permit manual movement of the valve between the first and the second valve positions, the lever including first and second bias mechanisms, the first bias mechanism urging the lever toward a position that places the valve in the second valve position, the second bias mechanism urging the lever away from the position that places the valve in the second valve position; and

a solenoid connected to the valve to move the valve between the first and second valve positions in response to an electrical input to the solenoid, the position of the lever being independent of the presence of the electrical input to the solenoid.

[[45]] 59. (Presently Amended) The valve assembly of claim [[44]] 58, wherein the first and second bias mechanisms are springs.

[[46]] 60. (Presently Amended) The valve assembly of claim [[45]] 59, wherein compression of the spring of the first bias mechanism results in the

elongation of the spring of the second bias mechanism.

[[47]] 61. (Presently Amended) The valve assembly of claim [[44]] 58, wherein the lever is movable into a first lever position wherein the first and second bias mechanisms are in equilibrium.

[[48]] 62. (Presently Amended) The valve assembly of claim [[47]] 61, wherein when the lever is in ~~the~~ a second lever position that places the valve in the second valve position, the lever is urged toward the first lever position by the net force of the first and second bias mechanisms.

[[49]] 63. (Presently Amended) The valve assembly of claim [[47]] 61, wherein the first and second bias mechanisms combine to urge the lever toward the first lever position when the lever is displaced from the first lever position.

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